

EXHIBIT 6



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

March 27, 2024
SPR24/0925

Matt Kezhaya, Esq.
150 S. Fifth St.
Suite 1850
Minneapolis, MN 55402

Dear Attorney Kezhaya:

I have received your letter appealing the response of the City of Boston to your request for records.

I have directed a member of my staff, Nicole Angelica, Esq., to review this matter. Upon completion of the review, I will advise you in writing of the disposition of this case. If in the interim you receive a satisfactory response to your request, please notify this office immediately.

Any further correspondence concerning this specific appeal should refer to the SPR case number listed under the date of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Manza Arthur".

Manza Arthur
Supervisor of Records

cc: Shawn A. Williams, Esq.

From: [Matt Kezhaya](#)
To: [SEC-DL-PREWEB](#)
Cc: Bianca.crockett@boston.gov; [City of Boston](#)
Subject: Appeal of Boston City Public Records Request :: R000620-020724
Date: Tuesday, March 26, 2024 10:34:18 PM
Attachments: [2024 02 07 original request.pdf](#)
[2024 02 23 15-day extension.pdf](#)
[2024 03 18 follow up.pdf](#)
[Boston Ord § 1-3A.pdf](#)

Good evening,

Pursuant to 950 CMR 32.08(1)(d), this is an appeal of the failure to respond to a records request. On February 7, 2024 I issued a request for:

All applications from May 1, 2022 to present to raise a flag pursuant to Ordinance § 1-3A.3(b); all mayoral proclamations to fly any granted applications; all city council resolutions to fly any granted applications; all bills of sale or like conveyances for flags on said granted applications; all communications pertaining to the consideration or denial of said applications; and all documents evidencing the legislative history of Ordinance § 1-3A / Ord. 2022 c. 6 (including without limitation, a revision history of the ordinance, any meeting minutes or other notes reflecting discussion of same, and a list of author(s) of the ordinance)

This appeal is timely filed. It was due within 90 calendar days of the request, on May 7. 950 CMR 32.08(1)(d). The appeal timely issued thirty days beforehand, on March 26. The documents requested are “public records” within the definition of 950 CMR 32.02 because the documents sought are all “made or received by a governmental entity.” Each document requested is one I expect to exist based on the language of Boston Ord. § 1-3A.4, a copy of which is attached, and available online [here](#). To the best of my knowledge, no part of these public records are the subject of a dispute in active litigation, administrative hearing or mediation. Nor is this request made solely for a commercial purpose. My purpose is not designed to harass, intimidate, or assist in the commission of a crime. Rather, I am investigating how, if at all, Boston’s flag policy has changed since *Shurtleff v. City of Bos.*, *Massachusetts*, 596 U.S. 243 (2022).

A response was due within ten business days, on February 21 (a Wednesday). MGL c. 66 § 10. Two days later, Boston invoked a 15 day extension, to March 15. 950 CMR 32.06(2)(b). Three days later, I followed up and requested a status update. I informed the records access officer that I would assume no responses are forthcoming unless I hear back by March 22. I have heard nothing since.

At no point has the records access officer provided the written response contemplated by law. MGL c. 66 § 10(a); 950 CMR 32(3)(c). Because no timely response has been received and because the records access officer has ignored my effort to follow up, I request a written determination that the documents sought are “public records,” a directive to the records access officer to produce the documents sought by a date certain, and to prohibit the records access officer from charging a fee. 950 CMR 32.06(2)(c) and 32.08(2)(c).

Please let me know if I can provide anything further.

Matt Kezhaya
150 S. Fifth St., Suite 1850

Minneapolis, MN 55402
(479) 431-6112
matt@kezhaya.law



PUBLIC RECORDS

Public Records Menu

[Home](#)
[FAQs](#)
[My Records Center](#)

FAQs

[See All FAQs](#)

What is a Records Access Officer?

Where are code violation records?

Does the City have court records, divorce records or probate records?

What do I do if my request is denied?

[My Request](#)
[View File\(s\)](#)
[View Message\(s\)](#)

Request / Incident Summary

| | |
|----------------------------------|------------------|
| Primary Requester E-Mail: | matt@kezhaya.law |
| Reference No: | R000620-020724 |
| Status: | Assigned |
| Balance Due: | \$0.00 |
| Payments: | \$0.00 |

UPLOAD DATE



DOWNLOAD ALL

Files:

| | |
|------------|---------------------------------|
| 03/26/2024 | Boston_Ord_§_1-3A.pdf |
| 03/26/2024 | 2024_03_18_follow_up.pdf |
| 03/26/2024 | 2024_02_23_15-day_extension.pdf |
| 03/26/2024 | 2024_02_07_original_request.pdf |
| 03/18/2024 | 2024_02_23_15-day_extension.pdf |
| 03/18/2024 | 2024_02_07_original_request.pdf |

Additional Information

Public records are documents or pieces of information that are not considered confidential and generally pertain to the conduct of government.

Department:

Administration and Finance
City Council
Mayor's Office
Mayor's Office of Arts and Culture
Public Records

Describe the Record(s) Requested:

All applications from May 1, 2022 to present to raise a flag pursuant to Ordinance § 1-3A.3(b); all mayoral proclamations to fly any granted applications; all city council resolutions to fly any granted applications; all bills of sale or like conveyances for flags on said granted applications; all communications pertaining to the consideration or denial of said applications; and all documents evidencing the legislative history of Ordinance § 1-3A / Ord. 2022 c. 6 (including without limitation, a revision history of the ordinance, any meeting minutes or other notes reflecting discussion of same, and a list of author(s) of the ordinance)

Give specific details of the record you are requesting. This must describe an identifiable record(s).

Preferred Method to Receive Records:

Electronic via Records Center
 Please note not all public documents are available in electronic format. If the document(s) requested are not available electronically, we will make them available for inspection or by paper copy in accordance with the Public Records Law.

New Message

✕ Cancel

Messages 6 Print Messages (PDF)

> ↩ On 3/27/2024 9:01:27 AM, Benjamin.Chan@sec.state.ma.us wrote:

> ↩ On 3/26/2024 10:36:38 PM, Matt Kezhaya wrote:

> ↩ On 3/18/2024 6:45:11 PM, Matt Kezhaya wrote:

> ✉ On 2/23/2024 12:49:01 PM, City of Boston wrote:

✓ ✉ On 2/7/2024 5:06:18 PM, City of Boston wrote:

Dear Matt Kezhaya,

Thank you for your interest in public records of City of Boston. Your request has been received and is being processed. Your request was received in this office on 2/7/2024 5:06:16 PM and given the reference number R000620-020724 for tracking purposes.

All applications from May 1, 2022 to present to raise a flag pursuant to Ordinance § 1-3A.3(b); all mayoral proclamations to fly any granted applications; all city council resolutions to fly any granted applications; all bills of sale or like conveyances for flags on said granted applications; all communications pertaining to the consideration or denial of said applications; and all documents evidencing the legislative history of Ordinance § 1-3A / Ord. 2022 c. 6 (including without limitation, a revision history of the ordinance, any meeting minutes or other notes reflecting discussion of same, and a list of author(s) of the ordinance)

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you

Director of Public Records

Records Access Officer

City of Boston

Track the issue status and respond at:

https://bostonma.govqa.us/WEBAPP/_rs/RequestEdit.aspx?rid=29679

✓ ✉ On 2/7/2024 5:06:17 PM, Matt Kezhaya wrote:

Request Created on Public Portal

Matt Kezhaya

From: City of Boston <CityofBoston@govqa.us>
Sent: Wednesday, February 7, 2024 4:07 PM
To: Matt Kezhaya
Subject: City Public Records Request :: R000620-020724

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Matt Kezhaya,

Thank you for your interest in public records of City of Boston. Your request has been received and is being processed. Your request was received in this office on 2/7/2024 5:06:16 PM and given the reference number R000620-020724 for tracking purposes.

All applications from May 1, 2022 to present to raise a flag pursuant to Ordinance § 1-3A.3(b); all mayoral proclamations to fly any granted applications; all city council resolutions to fly any granted applications; all bills of sale or like conveyances for flags on said granted applications; all communications pertaining to the consideration or denial of said applications; and all documents evidencing the legislative history of Ordinance § 1-3A / Ord. 2022 c. 6 (including without limitation, a revision history of the ordinance, any meeting minutes or other notes reflecting discussion of same, and a list of author(s) of the ordinance)

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Public Records Center.

Director of Public Records
Records Access Officer
City of Boston

Track the issue status and respond at:

https://bostonma.govqa.us/WEBAPP/_rs/RequestEdit.aspx?rid=29679

Matt Kezhaya

From: Matt Kezhaya
Sent: Monday, March 18, 2024 5:43 PM
To: City of Boston; Bianca.crockett@boston.gov
Subject: RE: City Public Records Request :: R000620-020724
Attachments: 2024 02 07 original request.pdf; 2024 02 23 15-day extension.pdf

Good evening,

Pursuant to the encouragement of the frequently asked questions on the public records center, I am following up on the status of this request. On February 23, Attorney Bianca Crockett invoked a 15-business day extension. By my calculation, the extended deadline for a response or objection was March 15, 2024. Although that date has elapsed, I have received neither response nor objection and a review of the public records center shows nothing since the February 24 extension.

Please let me know the status of the request, or if I can provide anything further. If I don't hear back by end of week, I will assume that no response is forthcoming and will pursue an appeal to the Supervisor pursuant to 950 CMR 32.08.

Matt Kezhaya
150 S. Fifth St., Suite 1850
Minneapolis, MN 55402
(479) 431-6112
matt@kezhaya.law

From: City of Boston <CityofBoston@govqa.us>
Sent: Friday, February 23, 2024 11:49 AM
To: Matt Kezhaya <matt@kezhaya.law>
Subject: City Public Records Request :: R000620-020724

--- Please respond above this line ---

02/23/2024

RE: PUBLIC RECORDS REQUEST of February 07, 2024., Reference # R000620-020724

Dear Matt Kezhaya:

The City of Boston (City) has received your request for public records. This response applies only to records that exist and are in the custody of the City. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Specifically, you stated:

All applications from May 1, 2022 to present to raise a flag pursuant to Ordinance § 1-3A.3(b); all mayoral proclamations to fly any granted applications; all city council resolutions to fly any granted applications; all bills of sale or like conveyances for flags on said granted applications; all communications pertaining to the consideration or denial of said applications; and all documents evidencing the legislative history of Ordinance § 1-3A / Ord. 2022 c. 6 (including without limitation, a revision history of the ordinance, any meeting minutes or other notes reflecting discussion of same, and a list of author(s) of the ordinance)

A response to a public records request must be provided within ten (10) business days from the business day a written request was received. G. L. c. 66, § 10 (a); 950 CMR 32.06(2)(b). The public records law permits a response time of up to twenty-five (25) business days from the business day a written request is received, so long as a detailed explanation is provided. G. L. c. 66, § 10(b)(vi); 950 CMR 32.06(2)(i).

Due to the nature of your request additional time is needed. As such, the City will need up to, but no more than, fifteen (15) additional business days to review and process your request.

Bianca V. Crockett, Esq.
Assistant Corporation Counsel
City of Boston
One City Hall Square
Boston, MA 02201
Bianca.crockett@boston.gov

To monitor the progress or update this request please log into the [Public Records Center](#).

Matt Kezhaya

From: City of Boston <CityofBoston@govqa.us>
Sent: Friday, February 23, 2024 11:49 AM
To: Matt Kezhaya
Subject: City Public Records Request :: R000620-020724

--- Please respond above this line ---

02/23/2024

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Bianca V. Crockett, Esq.
Assistant Corporation Counsel
City of Boston
One City Hall Square
Boston, MA 02201
Bianca.crockett@boston.gov

To monitor the progress or update this request please log into the [Public Records Center](#).

1-3A DISPLAY OF FLAGS ON CITY HALL PROPERTY.

The purpose of this section is to establish guidelines for the display by the City of Boston of (1) flags of governments recognized by the Federal Government; and (2) other flags on City Hall Plaza. Nothing herein shall be construed to conflict with City of Boston Code, Ordinances Sections 1-2.4 to 1-2.7, inclusive or Section 1-3.

(Ord. 2022 c. 6)

1-3A.1 Policy.

It is the policy of the City of Boston that flags should be displayed in conformance with Federal and State policies, as stated in the Federal "Our Flag" publication of the Congress, House Document No. 96-144; Chapter 2, Section 6 of the Massachusetts General Laws and Chapter 2, Section 6A of the Massachusetts General Laws.

(Ord. 2022 c. 6)

1-3A.2 Order of Precedence.

Outdoor flags will be flown at City facilities in the following order of precedence: first, the United States flag; second, the Commonwealth of Massachusetts flag; and third, the City of Boston flag.

(Ord. 2022 c. 6)

1-3A.3 Special Occasions of Federal, State and Local Proclamation.

a. Flags on City Hall Plaza shall be displayed in accordance with the above standards. However, the Mayor may order flags to be lowered to half staff including, but not limited to flags of the United States of America and the Commonwealth of Massachusetts in honor of the death of a City employee killed in the line of duty, or in observance of a specific event or circumstance.

b. Pursuant to proclamation of the Mayor, or resolution of the City Council, other flags may be flown by the City in place of the City of Boston flag.

(Ord. 2022 c. 6)

1-3A.4 Other Flags.

The City's flagpoles are not intended to serve as a forum for free expression by the public. The following flags may be displayed by the City as an expression of the City's official sentiments:

a. *Flags of Governments Recognized by the United States.* Flags of governments recognized by the United States may be displayed upon the proclamation of the Mayor or by resolution of the City Council.

b. *Flags Displayed in Conjunction With Official Events or Ceremonies as Announced by Mayoral Proclamation or City Council Resolution.* By proclamation of the Mayor or resolution of the City Council, other flags may be displayed as official City events or ceremonies.

c. *Flags of Professional Sports Teams.* The Mayor may order the display of the flag of a professional sports team in commemoration of a significant achievement involving the City of Boston.

d. *Ownership of Other Flags.* The City shall acquire ownership of all flags that it flies in place of the City of Boston flag.

(Ord. 2022 c. 6)

From: [Matt Kezhaya](#)
To: [Chan, Benjamin \(SEC\)](#); [SEC-DL-PREWEB](#)
Cc: [Bianca.crockett@boston.gov](#); [City of Boston](#)
Subject: Re: Appeal of Boston City Public Records Request :: R000620-020724
Date: Wednesday, March 27, 2024 11:15:23 AM
Attachments: [image001.png](#)
[2024 03 27 public records website.pdf](#)

Good morning,

See screenshot below and attached. The request was submitted through an online portal.

Additional Information

Public records are documents or pieces of information that are not considered confidential and generally pertain to the conduct of government.

Department: Administration and Finance
City Council
Mayor's Office
Mayor's Office of Arts and Culture
Public Records

Describe the Record(s) Requested: All applications from May 1, 2022 to present to raise a flag pursuant to Ordinance § 1-3A.3(b); all mayoral proclamations to fly any granted applications; all city council resolutions to fly any granted applications; all bills of sale or like conveyances for flags on said granted applications; all communications pertaining to the consideration or denial of said applications; and all documents evidencing the legislative history of Ordinance § 1-3A / Ord. 2022 c. 6 (including without limitation, a revision history of the ordinance, any meeting minutes or other notes reflecting discussion of same, and a list of author(s) of the ordinance)

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Matt Kezhaya
Kezhaya Law PLC
150. S. Fifth St., Suite 1850
Minneapolis, MN 55402
matt@kezhaya.law
(479) 431-6112

From: Chan, Benjamin (SEC) <Benjamin.Chan@sec.state.ma.us>
Sent: Wednesday, March 27, 2024 7:57:39 AM
To: Matt Kezhaya <matt@kezhaya.law>; SEC-DL-PREWEB <SEC-DL-PREWEB@sec.state.ma.us>
Cc: Bianca.crockett@boston.gov <Bianca.crockett@boston.gov>; City of Boston <CityofBoston@govqa.us>
Subject: RE: Appeal of Boston City Public Records Request :: R000620-020724

Good Morning,

Could you please forward a copy of the original request you filed with the City of Boston pursuant to 950 C.M.R. 32.08(1)? [See](#) 950 C.M.R. 32.08(1).

Very Respectfully,
Benjamin

Benjamin Chan (he/him/his)
Senior Legal Clerk
Office of the Secretary of the Commonwealth
Public Records Division
One Ashburton Place, Room 1719
Boston, MA 02108
617-727-2832

From: Matt Kezhaya <matt@kezhaya.law>
Sent: Tuesday, March 26, 2024 10:33 PM
To: SEC-DL-PREWEB <SEC-DL-PREWEB@sec.state.ma.us>
Cc: Bianca.crockett@boston.gov; City of Boston <CityofBoston@govqa.us>
Subject: Appeal of Boston City Public Records Request :: R000620-020724

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Please let me know if I can provide anything further.

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